

February 22, 2013

SENATE JUDICIARY

COMMIT NO. 2

DATE 2/22/13

RE: SB 306

To: Senate Judiciary Committee
From: Janet Duffy, Executive Director, YWCA Mercy Home of Great Falls
Re: SB 306 sponsored by Senator Olson – Revise Partner Family Member Assault Laws

Good morning. The YWCA Mercy Home of Great Falls appreciates the opportunity to be able to submit written testimony in support of SB 306. My name is Janet Duffy and I am the Executive Director of the YWCA of Great Falls. The YWCA of Great Falls has operated the Mercy Home – a temporary shelter for abused women and children for the last 36 years. We provide many other services in addition to safe shelter to victims of domestic and sexual violence. We strongly support Senate Bill 306 sponsored by Senator Olson.

SB 306 would amend the existing PFMA statute to remove the language “persons of the opposite sex”. This change is vitally important.

- We cannot allow abusers to use this ‘loop hole’ as a way to escape prosecution.
- The way the current law is written it has been ruled unconstitutional and must be changed in order to maintain the integrity of the existing law.
- Offenders must be held accountable whether in same sex or opposite sex relationships to decrease violence in our community.

On February 14, 2013, we held a candle light vigil and memorial dedication at the YWCA calling for an end to violence against women and children. We continue to see cases of intimate partner assault, sexual assault and child abuse **increase** in our region. These statistics are more than numbers to us at the YWCA and Mercy Home; they are faces of our mothers, sisters, daughters and friends. If we encourage our community to be accountable to end violence when they hear it, see it, or learn of it and then the offender is freed because language in a law can be argued as discrimination, what message are we sending?

Our mission at the YWCA is to “empower women and eliminate racism,” and as a Charter Member of the NAACP we are the first organization to identify and stand against discrimination. Prosecuting a heterosexual abuser for brutally assaulting their partner is not discrimination, it is justice.

Thank you for your time and attention to this important issue. I strongly urge you to vote **YES on SB 306** and move it to the Senate floor for consideration. If you have questions, I am available to provide further information.

Sincerely,
Janet Duffy

Janet Duffy
YWCA of Great Falls
(406) 452-1315
Janet.ywca@bresnan.net



VICTIM-WITNESS ASSISTANCE SERVICES

401 3RD AVE N LOWER LEVEL

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February 22nd, 2013

To: Senate Judiciary Committee
From: Nichole Griffith, Executive Director, Victim-Witness Assistance Services, Great Falls, MT
Re: SB 306 sponsored by Senator Olson – Revise Partner Family Member Assault Laws

Good morning. I appreciate the opportunity to be able to submit written testimony in support of SB 306. My name is Nichole Griffith and I am the Executive Director of Victim-Witness Assistance Services in Great Falls. We are a nonprofit crime victim services program that serves men, women, and children in Cascade County. We provide services to victims of ALL crimes including court case tracking, helping in applying for Orders of Protection, and support through the Criminal Justice system. We strongly support Senate Bill 306 sponsored by Senator Olson.

SB 306 would amend the existing PFMA statute to remove the language “persons of the opposite sex.” This change is crucial in protecting ALL victims of domestic violence.

- As a direct service provider to those who are assaulted by partners and family members, it is **VERY** disheartening to have to look into a survivor’s eyes and try to explain why they, as a victim in a same-sex relationship, are treated differently in the eyes of the law. Partner/Family Member Assaults are exactly that – PARTNERS or FAMILY members being assaulted and all offenders of this crime should be punished equally.
- It is critical to send a message to all domestic violence survivors that they matter and the law is in place to protect them – regardless of the type of relationship. If we, as a society, want the cycle of domestic violence to stop, there needs to be a clear message to ALL offenders that domestic violence will not be tolerated.
- The PFMA statute as currently written is unconstitutional and violates the Montana Constitution’s equal protection provision under Article II, Section 4 as well as the U.S. Constitution’s Fourteenth Amendment.
- As an advocate for victims of crime, I often see repeat domestic violence victims and offenders. In these cases, the offender can be charged with PFMA twice as a misdemeanor, but the third time – and typically an abuser will continue to offend – is a felony. While it is disheartening to see victims continue to remain in an unhealthy relationship, we have made strides in the law to make that third charge a felony and to allow law enforcement to make the charging decision instead of leaving it up to the victim. It is time to make strides in all aspects of domestic violence and allow for ALL survivors of domestic violence to have equal protection under this statute. It is not okay for the same assault to continue to be a misdemeanor time and time again for victims in homosexual relationships. Now is the time to make a difference.

Thank you for your time and careful attention to this important issue. I strongly urge you to vote **YES on SB 306** and move it to the Senate floor for consideration. If you have questions, I am available to provide further information.

Sincerely,

Nichole Griffith
Victim-Witness Assistance Services
Great Falls, MT
nichole@vwas.org

SAVES, INC.
P.O. BOX 404
LEWISTOWN, MT 59457
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February 19, 2013

To: Senate Judiciary Committee
From: Naomi Summers, Executive Director, SAVES, INC.
Re: SB 306 sponsored by Senator Olson- Revise Partner Family Member Assault Law.

Hello. SAVES, INC. appreciates the opportunity to be able to submit written testimony in support of SB 306. My name is Naomi Summers, Executive Director for a program covering Judith Basin, Wheatland, Golden Valley, Musselshell, Petroleum, Garfield, and Fergus Counties. We provide emergency services on a 24/7/365 day basis for victims of domestic and sexual violence. We strongly support Senate Bill 306 sponsored by Senator Olson.

We are asking to amend SB 306 of the existing PFMA statute to remove the language "persons of the opposite sex". This change is vitally important to us as we serve all victims without discrimination.

This amendment is needed so all victims of domestic violence are treated the same, and offenders are also held accountable in the same way. Domestic violence is the same in all family partner situations and we cannot treat same sex relationships any differently.

We believe that the language "persons of the opposite sex" is discriminatory and should be removed in order to maintain the integrity of the existing law.

One example of a case SAVES, INC handled involved a same sex female couple. One female attempted to strangle her long time partner while both were using marijuana. The offender pled guilty to aggravated assault only because the City Attorney could not offer her a plea deal to a lesser charge of PFMA. This resulted in a 5 year prison sentence. This was her first and only offense.

Thank you for your time and attention to this important issue. I strongly urge you to vote **YES on SB306** and move it to the Senate floor for consideration. If you have questions or comments please feel free to contact me for further information.

Sincerely,

Naomi Summers



Department of Grants and Community Programs

127 West Spruce Street (office location)
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Missoula MT 59802-4292
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February 22, 2013

To: Senate Judiciary Committee
From: Shantelle Gaynor, Missoula County Department of Grants and Community Programs
Re: SB 306 sponsored by Senator Olson – Revise Partner Family Member Assault Laws

Missoula County Department of Grants and Community Programs appreciates the opportunity to be able to submit written testimony in support of SB 306. My name is Shantelle Gaynor and I am a Grants Administrator and Program Director for the Missoula County Department of Grants and Community Programs. The Crime Victim Advocate Program (CVA) is a program of our office. Established in 1985, the CVA Program is one of the oldest legal advocacy programs in Montana. Missoula's CVA Program provides free and confidential assistance to victims of relationship violence, sexual assault, stalking and other crimes by offering advocacy and resource information in civil and criminal matters. We strongly support Senate Bill 306 sponsored by Senator Olson.

SB 306 would amend the existing PFMA statute to remove the language "persons of the opposite sex". This change is vitally important.

- The CVA program serves all victims of PFMA. Some of those victims are in same-sex relationships. Our current statute effectively allows perpetrators of violence in same sex relationship go free while putting victims in danger. Our statutes must not create loopholes for perpetrators to evade being held accountable.
- The current PFMA law is unconstitutional and must be changed in order to maintain the integrity of the existing law. Defense attorneys are now using this "loophole" to claim that no abuser should be held accountable. This argument effectively eviscerates our ability to hold offenders accountable while helping victims find safety.
- Holding offenders accountable (in both same sex and opposite sex relationships) is important in Missoula and around the state. Violent spouses and partners create untold trauma in the lives of their victims and the children in their homes. Domestic and dating violence is one of the few crimes that can move from a misdemeanor to a homicide in a matter of seconds. In many relationships this violence escalates over time however. The intervention of law enforcement and the criminal justice system is sometimes the only life line a victim has. Our statutes should protect the innocent and hold the perpetrators accountable – no matter what the status of their relationship is.

Thank you for your time and attention to this important issue. I strongly urge you to vote **YES on SB 306** and move it to the Senate floor for consideration. I am available to provide further information if you have any questions.

Sincerely,

Shantelle Gaynor
Missoula Department of Grants and Community Programs
(406) 258-4650
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CITY OF BILLINGS

CITY ATTORNEY'S OFFICE

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February 20, 2013

Senator Terry Murphy, Chair
Senate Judiciary Committee

RE: SB 306

Dear Chairman Murphy and Members of the Senate Judiciary Committee:

The Billings City Attorney's Office wishes to submit this letter of support in favor of SB 306, which seeks to eliminate the language, "with a person of the opposite sex," from the definition of "partners" found in the Partner or Family Member Assault statute – Mont. Code Ann. § 45-5-206(2)(b).

Over the years, our office has seen same-sex domestic violence offenders receive softer penalties since we can only charge them under the Assault statute – Mont. Code Ann. § 45-5-201. We are therefore in support of SB 306 and its intent to punish domestic violence offenders equally, regardless of their sexual orientation.

Sincerely,

Brent Brooks
Billings City Attorney



February 22nd, 2013

To: Senate Judiciary Committee
From: Kristy McFetridge, Executive Director, HAVEN in Bozeman, MT
Re: SB 306 sponsored by Senator Olson – Revise Partner Family Member Assault Laws

HAVEN appreciates the opportunity to be able to submit a written testimony in support of SB 306. My name is Kristy McFetridge and I am the Executive Director of HAVEN in Bozeman, MT. HAVEN was founded in 1979 and we provide emergency shelter, legal advocacy, counseling, support groups, a 24-hour crisis line and support services to victims of domestic and sexual violence. We strongly support Senate Bill 306 sponsored by Senator Olson.

SB 306 would amend the existing PFMA statute to remove the language “persons of the opposite sex”. This change is vitally important.

- Changing the PFMA statute to include all members of our community is critical. Without this change, violent offenders in our community will continue to be treated differently because they are abusing someone of the same sex, this is unacceptable. We believe that all Partner Family Member Assaults should be treated equally regardless of the sex of individuals involved in the assault. All members in our community need the law to provide protection for them from violence, and accountability for all members who commit violent crimes. In our community we have same sex couples with children. We believe SB 306 is critical to provide protection for children and the parents of these children who are exposed to, or experience, domestic and sexual violence.
- The current law is unconstitutional and must be changed in order to maintain the integrity of the existing law.
- Holding offenders equally accountable in both same sex and opposite sex relationships is essential for the intervention and prevention of domestic and sexual violence. We must have legislation and a justice system that will send a clear message to offenders that domestic and sexual violence will not be tolerated in our community. Clarity and consistency in justice system will protect individuals, children, and families in Montana.

Thank you for your time and attention to this important issue. I strongly urge you to vote **YES on SB 306** and move it to the Senate floor for consideration. If you have questions, I am available to provide further information.

Sincerely,

Kristy McFetridge
Executive Director

February 22nd, 2013

To: Senate Judiciary Committee
From: Cindy Weese, executive director, YWCA Missoula
Re: SB 306 sponsored by Senator Olson – Revise Partner Family Member Assault Laws

Dear Chairman Murphy and Members of the Senate Judiciary Committee:

YWCA Missoula appreciates the opportunity to submit written testimony in support of SB 306. My name is Cindy Weese, and I am the executive director of YWCA Missoula. We are a 501(c)3 nonprofit organization dedicated to eliminating racism, empowering women and promoting peace, justice, freedom and dignity for all. We strongly support Senate Bill 306 sponsored by Senator Olson.

SB 306 would amend the existing PFMA statute to remove the language “persons of the opposite sex.” This change is vitally important.

The rates of domestic violence in same-gender relationships are roughly the same as domestic violence against heterosexual women. As in opposite-gendered couples, the problem of domestic violence among same-sex couples is likely underreported. Compounding this issue is the fear of facing a system that has a history of being oppressive and hostile towards those who identify as Lesbian, Gay, Bisexual or Transgender, Queer and Intersexed (LGBTQI). As a result, LGBTQI survivors are often afraid of revealing their sexual orientation or the nature of their relationship and therefore may have an even lower reporting rate than survivors of violence in heterosexual relationships.

Same-sex couples involved in abusive relationships face additional barriers than their heterosexual counterparts:

- Partners may threaten to out someone as a way of controlling or intimidating the other person.
- Utilizing existing services (such as a shelter, attending support groups or calling a crisis line) either means lying or hiding the gender of the batterer to be perceived (and thus accepted) as a heterosexual. Or it can mean "coming out," which is a major life decision. If members of the LGBTQI community come out to service providers who are not discreet with this information, it could lead to the victim losing his/her home, job, custody of children, etc.
- If their lives are financially intertwined, such as each paying a rent or mortgage and having "built a home together", they have no legal process to assist in making sure assets are evenly divided, a process which exists for their married, heterosexual counterparts.

for every woman

- Even if a survivor does report or access services, s/he faces additional barriers. Police officers, prosecutors, judges, advocates and other service providers often have inadequate levels of experience and training to work with LGBTQI victims. Additionally, many states like Montana have insufficient or non-existent laws that can be enforced to protect victims of same-sex relationship violence.

Montana is one of three states that explicitly *excludes* same-sex survivors of domestic violence from protection under criminal laws. Within the last ten years, many states have altered laws to be more gender neutral, affording protection to anyone who has been abused or threatened by someone they've lived with or had an intimate dating relationship with, regardless of the gender of either party. Unless our state statutes clearly provide guidance for law and court personnel, even the most issue-conscious and well-meaning police officers, prosecutors and judges don't have statutory ability to take action on behalf of same-sex victims of domestic violence under the umbrella of "domestic violence laws." Illinois, Ohio, Kentucky and Hawaii have laws that specifically ALLOW victims in same-sex relationships to get a domestic violence restraining order. Montana's laws specifically DENY these victims from receiving a protection order.

We believe it is imperative to provide equal protections to same-sex victims of intimate partner violence. By removing the language, "with a person of the opposite sex" from the definition of partner, *all* victims of domestic violence will have an opportunity for justice.

Thank you for your time and attention to this important issue. I strongly urge you to vote YES on SB 306 and move it to the Senate floor for consideration. If you have questions, I am available to provide further information.

Sincerely,

Cindy Weese
Executive Director
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for every woman



Domestic and Sexual Violence Services

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February 19, 2013

Senate Judiciary Committee
Montana State Senate
Helena, Montana

RE: Senate Bill 306

Dear Committee Members:

I am the Executive Director of Domestic and Sexual Violence Services (DSVS), located in Red Lodge, Montana. We provide domestic and sexual violence victim services in both Carbon and Stillwater Counties as well as provide prevention education programs to a seven-county region in south-central Montana. **I am writing in support of SB 306, a revision of the Montana Partner Family Member Assault Law.**

Removing the language, "persons of the opposite sex," is crucial in order for all victims of domestic violence—gay or straight—to obtain justice and equal protection under the law.

It has already been argued in a court of law (Lincoln County Justice Court, Department 2) that the statute as currently written defines "partners" as exclusive of homosexual partners, thus "placing more burdensome penalties of the PFMA statute (on heterosexuals), while exposing homosexual partners only to the lesser penalties of misdemeanor assault." It is only a matter of time before perpetrators of domestic violence use this omission in our statute to plead inequality under the law whenever they are charged with partner family member assault.

Our community believes that all perpetrators of domestic assault, homosexual or straight, should be held accountable and be penalized equally under Montana law. Please **vote YES on SB 306** and move it to the Senate floor.

If you have any questions, please don't hesitate to call or email me (406-446-2296 or mvorachek@dsvsmontana.org).

Best Regards

Mitzi Vorachek
Executive Director